

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARK G. BRALLEY,

Plaintiff,

v.

No. 13-cv-0768 JB/SMV

**ALBUQUERQUE PUBLIC SCHOOLS BD. OF EDUC.,
ROBERT LUCERO, DAVID ROBBINS,
PAULA MAES, MARTIN ESQUIVEL,
KATHERINE KORTE, ALBUQUERQUE PUBLIC
SCHOOLS, WINSTON BROOKS, BRADLEY WINTER,
MONICA ARMENTA, RIGO CHAVEZ,
JOHN MILLER, STEVE TELLEZ, STEVE GALLEGOS,
and ALBUQUERQUE PUBLIC SCHOOLS POLICE DEP'T,**

Defendants.

**ORDER GRANTING
DEFENDANTS' MOTION TO COMPEL AND FOR SANCTIONS**

THIS MATTER is before the Court on Defendants' Motion to Compel Plaintiff's Responses to Defendants' First Set of Interrogatories and Requests for Production and for Sanctions [Doc. 104], filed on July 2, 2015. Plaintiff has not responded, nor requested an extension of time, and the time for responding has passed. The Court, being fully advised in the premises, finds that the Motion is well-taken and should be GRANTED.

Defendants filed their Motion on July 2, 2015, requesting an order: (i) compelling Plaintiff to respond to their First Sets of Interrogatories and Requests for Production; (ii) finding that Plaintiff has waived any objections he may have had to all of Defendants' discovery requests; and (iii) awarding Defendants their attorney fees and costs incurred in making the Motion. [Doc. 104] at 9. Plaintiff filed nothing in response to the Motion.

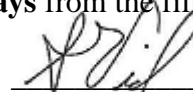
“The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion.” D.N.M.LR-Civ. 7.1(b). “A response must be served and filed within fourteen (14) calendar days after service of the motion.” D.N.M.LR-Civ. 7.4(a). Plaintiff has failed to timely respond to the Motion, and his failure constitutes consent to the grant the Motion. Moreover, the Court finds that Defendants attempted in good faith to obtain the discovery before filing the Motion, and that Plaintiff’s failure to respond to the discovery requests was not substantially justified. Thus, an order of reasonable expenses is required by Fed. R. Civ. P. 37(a)(5)(A).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendants’ Motion to Compel Plaintiff’s Responses to Defendants’ First Set of Interrogatories and Requests for Production and for Sanctions [Doc. 104] is **GRANTED**.

IT IS FURTHER ORDERED that:

1. Plaintiff shall respond to Defendants’ First Sets of Interrogatories and Requests for Production no later than **August 21, 2015**.
2. Defendants shall be awarded reasonable expenses, including attorney fees, incurred in making the Motion. Defendants’ counsel shall file an affidavit of expenses and attorney fees no later than **August 21, 2015**.
3. If Plaintiff has any reason to object to the amount or reasonableness of the expenses, such objections shall be filed no later than **14 days** from the filing of the affidavit.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge